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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/901,597

07/11/2001

Takahiro Nishiyama

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01/14/2004

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EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,597

Applicant(s)

NISHIYAMA ET AL.

Examiner

EDMUND H. LEE

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1732

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 08216278A in view of JP 09239807A. In regard to claim 1, JP 08216278A teaches the basic claimed process including a method for manufacturing a fuel transporting hose having an intermediate rubber layer and a rubber outer layer laminated on an outer peripheral surface of a fluororubber inner layer (abstract; figs 1-17); co-extruding fluororubber and an intermediate layer of rubber material with the use of a mandrel to form the intermediate rubber layer on an outer peripheral surface of the fluororubber inner layer (abstract; col 9, lns 4-7; figs 1-17); extruding an outer layer of rubber material on an outer peripheral surface of the intermediate rubber layer to form the rubber outer layer and thereby form an unvulcanized hose having the fluororubber inner layer, the intermediate rubber layer and the rubber outer layer (abstract; figs 1-17); after all the above steps, vulcanizing the unvulcanized hose to form a fuel transporting hose (abstract; col 9, lns 4-7; figs 1-17); and forming a fluorine-modified silicone lubricating layer on an inner peripheral surface of the fluororubber inner layer (abstract; figs 1-17). However, JP 08216278A does not teach extrusion molding without the use of a mandrel. JP 09239807A teaches extrusion molding a multilayered hose without using a mandrel thereby reducing processing steps (abstract; figs 1-14). JP 08216278A and JP

09239807A are combinable because they are analogous with respect to extrusion molding multilayered hoses. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extrusion mold the unvulcanized hose of JP 08216278A without the use of a mandrel as taught by JP 09239807A in order to reduce molding complexity. In regard to claims 2-4, JP 08216278A teaches forming the lubricating layer by circulating fluorine-modified silicone lubricant solution inside the fuel transporting hose having the fluororubber inner layer, and then volatilizing solvent from the fluorine-modified silicone lubricant (abstract; figs 1-17); forming the lubricating layer by coating fluorine-modified silicone lubricant on the inner peripheral surface of the fluororubber inner layer, from at least one end of the fuel transporting hose (abstract; figs 1-17); and coating on the inner peripheral surface of the fluororubber inner layer from at least one end of the fuel transporting hose after the fuel transporting hose having the fluororubber inner layer is cut to a shorter length.

3. Applicant's arguments filed 10/21/03 have been fully considered but they are not persuasive. Applicant argues the instant claimed invention is allowable because JP 08216278A does not teach co-extruding without a mandrel. This argument is misplaced because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Here, JP 09239807A which teaches extruding without the use of a mandrel a multi-layered hose is combined with JP 08216278A to teach the obviousness of the instant claimed invention. Applicant also argues that JP 09239807A teaches a step of

degassing which is not found in the instant claimed invention. Since the instant claimed invention is open-ended, the presence of the degassing step of JP 09239807A is within the metes and bounds of the instant claimed invention. Applicant also argues that there is no motivation to combine the references. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine the references is within the knowledge generally available to one of ordinary skill in the art. The motivation being a reduction in manufacturing costs.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP 56044643A teaches the well-known concept of extrusion molding a hose without using a mandrel.

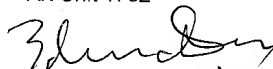
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 703.305.5493. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0661.

EDMUND H. LEE
Primary Examiner
Art Unit 1732

EHL


1/6/04